

**BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

EMILY VRKLJAN
470 North Coast Hwy., Apt. H
Laguna Beach, CA 92651
Occupational Therapist License No. OT 8489

Respondent.

Case No. OT 2005-64

OAH No. 2009030837

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Occupational Therapy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 24, 2009.

It is so ORDERED June 24, 2009.


FOR THE CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California

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Supervising Deputy Attorney General

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9 **BEFORE THE**
10 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

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13 EMILY VRKLJAN

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14 Laguna Beach, CA 92651

Occupational Therapist License No. OT 8489

OAH No. 2009030837

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Heather Martin (Complainant) is the Executive Officer of the California
22 Board of Occupational Therapy. She brought this action solely in her official capacity and is
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
24 by Carl W. Sonne, Deputy Attorney General.

25 2. Respondent Emily Vrkljan (Respondent) is represented in this proceeding
26 by attorney Fredrick M. Ray, Esq., whose address is 770 The City Drive, Suite 8100
27 Orange, CA 92868-6927.

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3. On or about October 12, 2005, the California Board of Occupational Therapy issued Occupational Therapist License No. OT 8489 to Emily Vrkljan (Respondent). Respondent's license will expire January 31, 2010, unless renewed.

JURISDICTION

4. Accusation No. OT 2005-64 was filed before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 29, 2008. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. OT 2005-64 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. OT 2005-64. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. OT 2005-64.

9. Respondent agrees that her Occupational Therapist License is subject to

1 discipline and she agrees to be bound by the Board 's imposition of discipline as set forth in the
2 Disciplinary Order below.

3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the Board. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Board may
6 communicate directly with the Board regarding this stipulation and settlement, without notice to
7 or participation by Respondent or her counsel. By signing the stipulation, Respondent
8 understands and agrees that she may not withdraw her agreement or seek to rescind the
9 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
10 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be
11 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
12 between the parties, and the Board shall not be disqualified from further action by having
13 considered this matter.

14 11. The parties understand and agree that facsimile copies of this Stipulated
15 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
16 force and effect as the originals.

17 12. In consideration of the foregoing admissions and stipulations, the parties
18 agree that the Board may, without further notice or formal proceeding, issue and enter the
19 following Disciplinary Order:

20 DISCIPLINARY ORDER

21 IT IS HEREBY ORDERED that Occupational Therapist License OT 8489 issued
22 to Respondent EMILY VIRKLJAN is revoked. However, the revocation is stayed and
23 Respondent is placed on probation for four (4) years.

24 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws
25 and regulations governing the practice of occupational therapy in California. Respondent shall
26 submit, in writing, a full detailed account of any and all violations of the law to the Board within
27 five (5) days of occurrence.

28 2. **Compliance with Probation and Quarterly Reporting.** Respondent

1 shall fully comply with the terms and conditions of probation established by the Board and shall
2 cooperate with representatives of the Board in its monitoring and investigation of the
3 respondent's compliance with probation. Respondent, within ten (10) days of completion of the
4 quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance
5 form obtained from the Board.

6 3. **Personal Appearances.** Upon reasonable notice by the Board,
7 respondent shall report to and make personal appearances at times and locations as the Board
8 may direct.

9 4. **Notification of Address and Telephone Number Change(s).**
10 Respondent shall notify the Board, in writing, within five (5) days of a change of residence or
11 mailing address, of her new address and any change in work and/or home telephone numbers.

12 5. **Tolling for Out-of-State Practice, Residence or In-State Non-Practice.**
13 In the event Respondent should leave California to reside or to practice outside the State for
14 more than thirty (30) days, Respondent shall notify the Board or its designee in writing within
15 ten (10) days of the dates of departure and return. All provisions of probation, except cost
16 recovery, shall be held in abeyance until respondent resumes practice and/or resides in
17 California. All provisions of probation shall recommence on the effective date of resumption of
18 practice and/or residence in California.

19 6. **Notification to Employer(s).** When currently employed or applying for
20 employment in any capacity in any health care profession, Respondent shall notify her employer
21 of the probationary status of respondent's license. This notification to the current employer shall
22 occur no later than the effective date of the Decision. Respondent shall notify any prospective
23 health care employer of her probationary status with the Board prior to accepting such
24 employment. This notification shall be made by providing the employer or prospective
25 employer with a copy of the Board's Accusation and Stipulated Settlement and Disciplinary
26 Decision and Order.

27 Respondent shall cause each health care employer to submit quarterly reports to
28 the Board. The reports shall be on a form provided by the Board, shall include a performance

1 evaluation and such other information as may be required by the Board.

2 Respondent shall notify the Board, in writing, within five (5) days of any change
3 in employment status. Respondent shall notify the Board, in writing, within five (5) days if she
4 is terminated from any occupational therapy or health care related employment with a full
5 explanation of the circumstances surrounding the termination.

6 7. **Employment Requirements and Limitations.** During probation,
7 respondent shall work in her licensed capacity in the State of California. This practice shall
8 consist of no less than twelve (12) continuous months and of no less than twenty (20) hours per
9 week.

10 While on probation, respondent shall not work for a registry or in any private duty
11 position, except as approved, in writing, by the Board. Respondent shall work only on a
12 regularly assigned, identified, and pre-determined work site(s) and shall not work in a float
13 capacity except as approved, in writing, by the Board.

14 8. **Supervision Requirements.** Respondent shall obtain prior approval from
15 the Board, before commencing any employment, regarding the level of supervision provided to
16 the respondent while employed as an occupational therapist or occupational therapy assistant.

17 Respondent shall not function as a supervisor during the period of probation
18 except as approved, in writing, by the Board.

19 9. **Continuing Education Requirements.** Respondent shall complete
20 continuing education in the areas in Ethics, Clinical Reasoning, and Stress Management. Such
21 continuing education shall be completed within one (1) year of the effective date the Decision.

22 The continuing education course work shall be in addition to the professional
23 development activities required for license renewal. Respondent shall complete the required
24 continuing education course work, as follows: one course in Ethics for twelve hours (hours) of
25 credit, one course in Clinical Reasoning for two (2) hours of credit, and one course in Stress
26 Management for four (4) hours of credit.

27 Within thirty (30) days of the effective date of the Decision, Respondent shall
28 submit a written plan to comply with this requirement. The proposed plan shall include the name

1 or title of the course, a course description or syllabus, and identify the provider. A Board
2 representative shall approve such plan prior to enrollment in any course of study.

3 Failure to satisfactorily complete the required continuing education as scheduled
4 shall constitute a violation of probation. Respondent is responsible for all costs of such
5 continuing education. Upon successful completion the courses, Respondent shall send the
6 original certificates she receives for successful completion of the course work to the Board
7 within thirty (30) days of completion of each course. Respondent shall send the original
8 certificates to the Board by certified mail, return receipt requested.

9 10. **Maintenance of Valid License.** Respondent shall, at all times while on
10 probation, maintain an active current license with the Board, including any period during which
11 license is suspended or probation is tolled.

12 11. **Cost Recovery Requirements.** Respondent shall pay the Board
13 \$5,000.00 as and for the reasonable costs of the investigation and prosecution in this matter
14 pursuant to Business and Professions Code section 125.3. Respondent shall be permitted to pay
15 these costs in a payment plan approved by the Board, with the payments to be completed no later
16 than six months prior to the end of the probation term. Respondent shall make the check or
17 money order payable to the Board of Occupational Therapy and shall indicate on the check or
18 money order that it is the cost recovery payment for Case No. OT 2005-64. Any order for
19 payment of cost recovery shall remain in effect whether or not probation is tolled. Probation
20 shall not terminate until full payment has been made. Should any part of cost recovery not be
21 paid in accordance with the outlined payment schedule, Respondent shall be considered to be in
22 violation of probation. A period of non-practice by Respondent shall not relieve Respondent of
23 her obligation to reimburse the board for its costs

24 12. **Violation of Probation.** If respondent violates probation in any respect,
25 the Board, after giving respondent notice and opportunity to be heard, may revoke probation and
26 carry out the disciplinary order which was stayed. If an accusation or a petition to revoke
27 probation is filed against respondent during probation, the Board shall have continuing
28 jurisdiction until the matter is final, and the period of probation shall be extended until the matter

1 is final.

2 13. **Completion of Probation and Waiver of Petition to Modify or Seek**
3 **Early Termination of Probation.** Respondent waives any rights she may have to petition for
4 early termination of probation or petition for modification of the terms of probation contained
5 herein. Upon successful completion of probation, respondent's license will be fully restored.

6 18. **Chemical Dependency Support/Recovery Groups.** Within five (5) days
7 of the effective date of the Decision, respondent shall begin attendance at a chemical dependency
8 support group (e.g. Alcoholics Anonymous, Narcotics Anonymous). Verified documentation of
9 attendance shall be submitted by respondent with each quarterly report. Attendance in such
10 groups shall be a minimum of one (1) time per week for the first two (2) years of probation. In
11 the third and forth year of probation the Board or its designee may consider reducing the
12 frequency of attendance based on respondent's efforts toward rehabilitation, compliance with
13 probation, and work performance evaluations. Respondent shall continue attendance in such a
14 group for the duration of probation.

15 19. **Abstain From Controlled Substances.** Respondent shall completely
16 abstain from the personal use or possession of controlled substances, as defined in the California
17 Uniform Controlled Substances Act, and dangerous drugs as defined in section 4021 and 4022 of
18 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner
19 for a bona fide illness.

20 20. **Abstain From Use of Alcohol.** Respondent shall completely abstain from
21 the use of alcoholic beverages during the period of probation.

22 21. **Submit Biological Fluid Samples.** Respondent shall immediately submit
23 to biological fluid testing, at respondent's cost, upon request by the Board or its designee. There
24 will be no confidentiality in the test results; positive test results will be immediately reported to
25 the Board and the respondent's current employer.

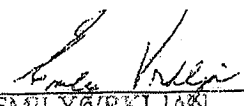
26 24. **Suspension.** Respondent is suspended from the practice of occupational
27 therapy for fifteen (15) days beginning on the effective date of the Decision.

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ACCEPTANCE

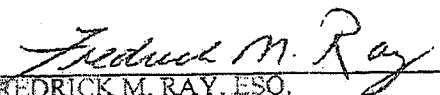
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Fredrick M. Ray, Esq. I understand the stipulation and the effect it will have on my Occupational Therapist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Occupational Therapy.

DATED: 5-13-09


EMILY VRKLJAN
Respondent

I have read and fully discussed with Respondent Emily Vrkljan the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/13/09


FREDRICK M. RAY, ESQ.
Attorney for Respondent

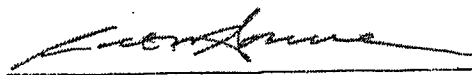
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Occupational Therapy of the Department of Consumer Affairs.

DATED: May 22, 2009

EDMUND G. BROWN JR., Attorney General
of the State of California

JAMES M. LEDAKIS
Supervising Deputy Attorney General


CARL W. SONNE
Deputy Attorney General
Attorneys for Complainant